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In re Application of HUSEMANN et al	:	
U.S. Application No.: 10/539,788	:	
PCT Application No.: PCT/EP2003/013169	:	DECISION
Int. Filing Date: 24 November 2003	:	
Priority Date Claimed: 19 December 2002	:	
Attorney Docket No.: 101769-317-WCG	:	
For: SELF-ADHESIVE ARTICLE . . .	:	

This is in response to applicant's "Petition Under 37 CFR § 1.181(a) to Withdraw Holding of Abandonment" filed 06 December 2007.

BACKGROUND

On 24 November 2003, applicant filed international application PCT/EP2003/013169, which claimed priority of an earlier Germany application filed 19 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 08 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 19 June 2005.

On 17 June 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 28 April 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 13 June 2006, applicant purportedly filed an executed declaration via facsimile.

On 23 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 06 December 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the declaration purportedly filed on 13 June 2006 is not present.

37 CFR 1.8(b) states:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

With regard to item (1) above, the present petition was promptly filed.

With regard to item (2) above, a copy of the previously transmitted declaration and certificate has been provided.

With regard to item (3) above, the statement contained in the petition is not from the person whose name appears on the certificate of transmission.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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